HF5 - 5A - Paid Family Medical Benefits Employee Leave

Chief Author:	**Laurie Halverson**
Commitee:	**Ways and Means**
Date Completed:	**2/15/2020 3:37:16 PM**
Lead Agency:	Employment and Economic Dvlpmt

Other Agencies:

Administrative Hearings	Human Services Dept
Labor and Industry Dept	Legislature
Minn Management and Budget	Revenue Dept
Supreme Court	

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue	X	
Information Technology	X	

Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	**FY2019**	**FY2020**	**FY2021**	**FY2022**	**FY2023**
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Employment and Economic Dvlpmt					
General Fund	-	-	10,828	21,005	16,291
Restrict Misc. Special Revenue	-	-	-	(446,199)	(857,271)
Human Services Dept					
General Fund	-	-	-	574	-
Labor and Industry Dept					
General Fund	-	-	528	518	467
Legislature					
General Fund	-	-	11	70	139
Minn Management and Budget					
General Fund	-	-	39	1,872	3,598
All Other Funds	-	-	-	3,950	7,618
Supreme Court					
General Fund	-	-	20	-	-
State Total					
Administrative Hearings	-	-	-	-	-
General Fund	-	-	11,426	24,039	20,495
Restrict Misc. Special Revenue	-	-	-	(446,199)	(857,271)
All Other Funds	-	-	-	3,950	7,618
Total	**-**	**-**	**11,426**	**(418,210)**	**(829,158)**
Biennial Total			**11,426**		**(1,247,368)**

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Employment and Economic Dvlpmt					
General Fund	-	-	5.25	6.25	6.75
Restrict Misc. Special Revenue	-	-	6.81	64.61	290.56
Human Services Dept					
General Fund	-	-	-	-	-
Labor and Industry Dept					
General Fund	-	-	2	3.5	3.5
Legislature					
General Fund	-	-	-	-	-
Minn Management and Budget					
General Fund	-	-	-	-	-
All Other Funds	-	-	-	-	-
Supreme Court					
General Fund	-	-	-	-	-
Total	**-**	**-**	**14.06**	**74.36**	**300.81**

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.
The payroll data in the Minnesota Management and Budget (MMB) fiscal note, used to calculate the estimated employer paid premiums as a result of this bill, includes all employees operating in the SEMA4 Human Resources System. These figures include employees in the Legislative Coordinating Commission (LCC), Office of the Legislative Auditor (OLA), and Senate, who are also accounted for in the Legislatures fiscal note. This is estimated to be approximately $27 million in projected payroll for FY 2022-23. The net effect of both MMB and the Legislature accounting for the same staff is an estimated decrease in the main biennial cost-table to the general fund of approximately $122 thousand across all years.

LBO Signature: Michelle Weber **Date:** 2/15/2020 3:37:16 PM
Phone: 651-297-1423 **Email:** michelle.weber@lbo.leg.mn

State Cost (Savings) Calculation Details
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium		Biennium	
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Employment and Economic Dvlpmt					
General Fund	-	-	10,828	21,005	16,291
Restrict Misc. Special Revenue	-	-	-	(446,199)	(857,271)
Human Services Dept					
General Fund	-	-	-	574	-
Labor and Industry Dept					
General Fund	-	-	528	518	467
Legislature					
General Fund	-	-	11	70	139
Minn Management and Budget					
General Fund	-	-	39	1,872	3,598
All Other Funds	-	-	-	3,950	7,618
Supreme Court					
General Fund	-	-	20	-	-
Total	**-**	**-**	**11,426**	**(418,210)**	**(829,158)**
Biennial Total			**11,426**		**(1,247,368)**
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	23	-	-
Employment and Economic Dvlpmt					
General Fund	-	-	10,828	21,005	16,291
Restrict Misc. Special Revenue	-	-	-	2,875	40,877
Human Services Dept					
General Fund	-	-	-	574	-
Labor and Industry Dept					
General Fund	-	-	528	518	468
Legislature					
General Fund	-	-	11	70	139
Minn Management and Budget					
General Fund	-	-	39	1,872	3,598
All Other Funds	-	-	-	3,950	7,618
Supreme Court					
General Fund	-	-	20	-	-
Total	**-**	**-**	**11,449**	**30,864**	**68,991**
Biennial Total			**11,449**		**99,855**
2 - Revenues, Transfers In*					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	23	-	-
Employment and Economic Dvlpmt					
General Fund	-	-	-	-	-

State Cost (Savings) = 1-2		Biennium		Biennium	
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
Restrict Misc. Special Revenue	-	-	-	449,074	898,148
Human Services Dept					
General Fund	-	-	-	-	-
Labor and Industry Dept					
General Fund	-	-	-	-	1
Legislature					
General Fund	-	-	-	-	-
Minn Management and Budget					
General Fund	-	-	-	-	-
All Other Funds	-	-	-	-	-
Supreme Court					
General Fund	-	-	-	-	-
Total	**-**	**-**	**23**	**449,074**	**898,149**
Biennial Total			**23**		**1,347,223**

HF5 - 5A - Paid Family Medical Benefits Employee Leave

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Commitee: **Ways and Means**
Date Completed: **2/15/2020 3:37:16 PM**
Agency: Employment and Economic Dvlpmt

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue	X	
Information Technology	X	

Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)			**Biennium**		**Biennium**
Dollars in Thousands	**FY2019**	**FY2020**	**FY2021**	**FY2022**	**FY2023**
General Fund	-	-	10,828	21,005	16,291
Restrict Misc. Special Revenue	-	-	-	(446,199)	(857,271)
Total	**-**	**-**	**10,828**	**(425,194)**	**(840,980)**
Biennial Total			**10,828**		**(1,266,174)**

Full Time Equivalent Positions (FTE)			**Biennium**		**Biennium**
	FY2019	**FY2020**	**FY2021**	**FY2022**	**FY2023**
General Fund	-	-	5.25	6.25	6.75
Restrict Misc. Special Revenue	-	-	6.81	64.61	290.56
Total	**-**	**-**	**12.06**	**70.86**	**297.31**

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Christian Larson **Date:** 2/15/2020 3:25:01 PM
Phone: 651-284-6436 **Email:** christian.larson@lbo.leg.mn

State Cost (Savings) Calculation Details
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2			Biennium		Biennium	
Dollars in Thousands		**FY2019**	**FY2020**	**FY2021**	**FY2022**	**FY2023**
General Fund		-	-	10,828	21,005	16,291
Restrict Misc. Special Revenue		-	-	-	(446,199)	(857,271)
	Total	**-**	**-**	**10,828**	**(425,194)**	**(840,980)**
	Biennial Total			**10,828**		**(1,266,174)**
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund		-	-	10,828	21,005	16,291
Restrict Misc. Special Revenue		-	-	-	2,875	40,877
	Total	**-**	**-**	**10,828**	**23,880**	**57,168**
	Biennial Total			**10,828**		**81,048**
2 - Revenues, Transfers In*						
General Fund		-	-	-	-	-
Restrict Misc. Special Revenue		-	-	-	449,074	898,148
	Total	**-**	**-**	**-**	**449,074**	**898,148**
	Biennial Total			**-**		**1,347,222**

Bill Description

Overview

HF5 establishes a Family and Medical Benefits Division within the Minnesota Department of Employment and Economic Development (DEED). That division would be charged with administering a family and medical benefit insurance program to provide the following:

- Family care benefits
- Bonding benefits
- Pregnancy benefits
- Medical leave benefits
- Safety leave benefits
- Qualifying exigency leave benefits

Each program would have distinct eligibility requirements and the maximum length of benefits is dependent on the type of leave with a maximum length of benefits of 12 weeks per 52 week period for medical or pregnancy leave. An additional up to 12 weeks of benefits is available for bonding, safety leave or family care. Up to an additional 12 weeks of benefits is available for leave related to one or more qualifying exigencies.

Premiums

Under the bill, employees and employers would fund the benefit programs described above by paying premiums. All employers would be required to pay premiums, including governmental and nonprofit employers that do not pay taxes under Minnesota Unemployment Insurance law. The bill would also permit self-employed individuals to opt in to the program.

Employer premium obligations would be calculated using a taxable wage base consistent with the Federal Insurance Contribution Act (FICA) tax, which is $132,900 for 2019.

Employers would be able to deduct up to 50% of annual premiums paid from employee wages, subject to the minimum wage.

The bill would require the Department to set employer premium rates annually based on a ratio of benefits paid to total covered wages, except that the 2021 premium rate would be set in statute. The premium rate for 2022 is currently .6 percent in the bill.

Each calendar year following the calendar year beginning January 1, 2024 the bill requires the DEED commissioner to adjust the annual premium rates using a formula in the bill.

The bill requires that premiums from employers be deposited in a special revenue fund in the state treasury. That fund would be used to pay benefits and grants for the business subsidy program as well as fund the administrative costs associated with this program.

Substitution of a Private Plan

The bill creates a process by which employers may substitute a private plan for the state's plan when they can demonstrate they already offer equal or better benefits to their employees

The DEED Commissioner will be required to approve applications for employers to substitute a private medical or family benefit program.

The DEED Commissioner will also be required to approve any amendments to a private plan that has previously been approved for substitution.

Benefits

To be eligible for benefits, an applicant must have earned sufficient wage credits as defined under Minnesota Unemployment Insurance law. Currently, that amount is $3,000 in the applicant's period. This is equivalent to 368 hours of work for a small employer (minimum wage of $8.15) or 300 hours for a large employer (minimum wage of $10.00).

The maximum weekly benefit amount payable to an applicant for any given week is based on the annual statewide average weekly wage (as defined under Minnesota Unemployment Insurance law). An individual applicant's weekly benefit amount would be determined partially based on that individual's average weekly wage; applicants with a lower average weekly wage would have a proportionately higher share of their wage replaced.

Maximum benefit duration would be limited to a certain number of weeks, which vary by benefit type. Applicants could receive more than one benefit type consecutively for the same qualifying event. The program provides a maximum length of benefits of 12 weeks per 52 week period for medical or pregnancy leave. The program allows for additional benefits of up to 12 weeks is available for bonding, safety leave or family care. The program also allows for up to an additional 12 weeks of benefits related to one or more qualifying exigencies. An applicant eligible under more than one benefit type could stack eligibility.

Implementation Timeline

The bill would require the Department to begin collecting premiums on January 1, 2022 and paying benefits on July 1, 2023. The bill would appropriate one-time General Fund dollars for the purpose of establishing the program.

The bill appropriates general funding in fiscal years 2021 and 2022 for DEED to do outreach, education and technical assistance for employees and employers.

The bill appropriates general funding in fiscal years 2021-2024 for the IT system build.

Assumptions

Overview

HF5 would require the Department to build a new premium collection and benefit payment system for this program. There are two other states, Washington and Massachusetts, who have recently enacted a similar family and medical leave program. Both have recently built a premium payment system. Massachusetts is currently building their benefit payment systems and Washington recently completed building their benefit payment system. It is possible that Minnesota would be able to contract with a vendor familiar with such systems.

DEED assumes that general fund appropriations will fund staff and administrative costs in FY21 and FY22. DEED assumes that costs in FY23 and in ongoing years will be covered by the special revenue account.

The department assumed that the administrative costs from the special revenue account would be made available at the start of FY23 for administrative costs. The bill, as written, allows the commissioner to spend up to seven percent of projected benefit payment for that calendar year for the administration of this program.

The department assumed that the .5 percent of revenue collected that the commissioner must use for public outreach, education and technical assistance for employees, employers and self-employed individuals would not be available until FY23 when adequate collections had been made to fund such costs.

The department assumes the remaining IT build costs of $11.5 million will be funded by the general fund in FY2024.

Total Number of Covered Workers

The Institute for Women's Policy Research (IWPR) simulation model that was developed in partnership with the Labor Research Center at the University of Massachusetts includes self-employed individuals in their estimate of the total number of covered workers in Minnesota who would participate in this program. We have chosen to follow their estimate which assumes that 6% of the state's self-employed workforce will opt into the program.

Employer Opt-Out Estimation

We have no way of estimating the number of employers who will be eligible to opt out of this program. We do not have a survey of existing employer benefits upon which we could infer the number of employers in the state whose current benefit package would qualify them to opt-out. Absent any modeling or analysis about the impact this bill may have on Minnesota's employer behavior, we have chosen to assume that Minnesota employers will not opt out of this program.

Uptake Rates

We were also required to estimate the number of covered workers who would 1) qualify for one or more benefit types and

2) choose to apply for them.

The anticipated uptake rates used in this fiscal note are sourced from estimates by the Institute for Women's Policy Research (IWPR). We are using these figures because they are the only estimates of uptake rates available to the Department for these benefit types.

We have no estimates of uptake rates or way of producing our own estimates for the qualifying exigency leave or safety leave. Upon advice from DEED's Labor Market Information office, department staff are estimating that 1,000 Minnesotans annually qualify for exigency benefits and 1,000 Minnesotans annually qualify for safety leave with a calculated take up rate consistent with that of family care.

We are not able to estimate the impact of applicants who access multiple benefit types sequentially.

We summarize uptake rates below as a percentage of the workforce and cost as and average amount of payout to each group in a year.

Total MN Employees	Own Health	Pregnancy	Bonding	Family Care	Qualifying Exigency	Safety
Est. Uptake Rate	4.01%	1%	0.94%	0.52%	0.03%	0.03%
3,039,356	$481,292,526	$150,708,678	$108,948,902	$35,193,616	$2,212,600	$2,212,600

Average Benefit Amount

We were required to determine the average benefit amount that each applicant would receive under the program. The minimum weekly benefit amount under the bill would be approximately $200, while the maximum benefit amount would be approximately $1,077.

The department used the IWPR estimates for average weekly benefit amounts for participants.

Average Benefit Duration

We were required to determine the average length of time that each applicant would receive benefits. Applicants could collect a minimum of one week of benefits under any benefit type.

The department used the IWPR estimates for average number of weeks used.

Total Benefit Costs

DEED used the IWPR to estimate the number of covered workers, the uptake rate, the average benefit amount, and the average benefit duration, for all eligibilities except qualifying exigency and safety leave. For qualifying exigency and safety leave we assumed that the pattern of usage is approximated by family care.

This dollar figure relies on the notion that each individual would only collect one kind of benefits. HF5 would permit multiple categories of leave related to a single event subject to the maximum leave limitations in the bill.

Program Participation Assumptions							
Total MN Employees*	**Own Health**	**Maternity-Related Disablility**	**Parental Bonding**	**Family Care**	**Qualifying Exigency**	**Safety**	**Totals / Averages**
3,039,356							
IWPR Annual Usage Est -- All	121,945	30,364	28,467	15,906	1,000	1,000	198,682
Calc. Takeup rate	4.01%	1.00%	0.94%	0.52%	0.03%	0.03%	n/a
Maximum Wks Avail	12	12	12	12	12	12	n/a
Maximum Weekly Amount	$1,077	$1,077	$1,077	$1,077	$1,077	$1,077	n/a
Minimum Weekly Amount	$230	$230	$230	$230	$230	$230	n/a
IWPR Avg Weeks Est -- All	6.6	8.3	6.4	3.7	3.7	3.7	6.6
IWPR Avg Weekly Benefit Est -- All	$598	$598	$598	$598	$598	$598	$598
IWPR Annual Benefit Est -- All	$481,292,526	$150,708,678	$108,948,902	$35,193,616	$2,212,600	$2,212,600	$780,568,922

We were required to estimate the number of people covered by this program. The Institute for Women's Policy Research (IWPR) simulation model that was developed in partnership with the Labor Research Center at the University of Massachusetts includes self-employed individuals in their estimate of the total number of covered workers in Minnesota who would participate in this program. We have chosen to follow their estimate which assumes that 6% of the state's self-employed workforce will opt into the program.

Expenditure and/or Revenue Formula

Revenue Formula: Family and Medical Leave Division

We assume that the revenue formula would produce annual receipts equal at least to the amount paid plus a surplus to accommodate the quarterly revenue cycle plus unexpected increases in payout.

Accounting for the cost of the estimated annual benefit payment as estimated by the IWPR along with the estimate of the cost of the business grants program (discussed later in this fiscal note) the annual costs of this program without administrative costs is $785,568,922 million.

We calculated the premium rate by adding administrative costs as of FY24 for DEED and DLI. That administrative cost is $43,929,307. We assumed a premium rate should raise sufficient funds to pay benefit payments and administrative costs for this program for one year. Based on this calculation, the estimated premium rate would be .6% calculated using 2017 wages up to the 2019 FICA taxable wage base ($132,900); which is a wage base of $139,165,449,014.

2017 MN 2019 FICA taxable wage base	139,165,449,014
IWPR Calculated Annual Benefit Costs	780,568,922
Business Subsidy Program	5,000,000
Total	785,568,922
DEED and DLI Admin Cost FY23	42,917,345
Total Benefits and Admin	828,486,267
Premium Rate Needed	0.6%

Premium Rate Adjustments

Each calendar year following the calendar year beginning January 1, 2024 the commissioner must adjust the annual premium rates using the formula in the bill.

Cost to State and Local Government

HF 5 would propose to charge premiums to state and local governments. In many cases, these employers already provide family and medical leave benefits but it is unclear what the impact this program would have on such employers and their decisions to opt-out or participate in this program. Absent data that could model this behavior, we assumed that all state and local governments will participate in this program.

Expenditure Formula: Permanent Administrative Costs

The Unemployment Insurance (UI) Program is one of several potential points of comparison for the proposed FMLI program. In an average year, the Minnesota UI program pays out approximately $800 million in benefits to approximately 150,000 Minnesotans. Program staffing has ranged from 300 FTEs to 400 FTEs depending on program demands.

That said, there are a number of reasons why the UI staffing ratio may be leaner than what would be possible in the first several years of the Paid Family and Medical Leave Division.

- The application process, data to be managed and stored, adjudication process, appeal process, premium structure, and financial structure contemplated in HF5 are all relatively complicated compared to UI.
- The Paid Family and Medical Leave Program will not have established technology systems, business processes, or trained staff.
- The program will not have the benefit of decades of court precedents to guide its interpretations.

With these challenges in mind, the administrative cost analysis that follows is based on a federal UI budgeting methodology called the Resource Justification Model (RJM). That model looks to a state's overall UI claims and projects out the number of staff *minutes per unit* necessary to complete the associated workload. This staffing model is relevant because the tasks that would have to be performed by staff under this proposal are similar to those performed in the UI program.

This estimate assumes the same tasks and minutes per unit as are currently used in the Minnesota UI program. Since Minnesota's UI program is one of the most cost effective in the country, it is unlikely that this level of efficiency would be obtainable, at least in the early years of the program. This can be considered a reasonable starting point for estimating staffing costs for the premium collections, benefit payments and business subsidy program as they are similar in nature to the UI program

Based on that methodology and other UI staffing considerations, we have estimated that premium collections, benefit payments and business subsidy programs program would collectively require 316 FTEs when the premium collection benefit payments and business subsidy payments are fully operational. We have scheduled staffing the premium collection unit and benefit payment and business subsidy payment units with staff two months prior to the system going "live" to allow time to fully train staff. DEED's staffing costs include program administration, benefit and collection, call center and administrative appeals. Staffing includes DEED's administrative appeals staffing costs but not appeals beyond DEED into the state court state system.

The MNIT staffing is included in the table below but discussed further in the MNIT/Technology Costs section.

Staff for the public outreach programs are included below but discussed in the Outreach Programs section.

Administrative Costs	**FY2021**	**FY2022**	**FY2023**	**FY2024**
IWPR Calculated Annual Benefit Costs				780,568,922
Business Subsidy Program			37,252,875	74,505,750
Total IT Build Costs	7,264,000	15,019,544	15,025,172	14,109,972
IT Staff Costs	995,483	1,179,832	1,265,861	1,265,861
Outreach Staff Cost		629,962	629,962	629,962
Outreach Expenditures		-	4,490,741	4,490,741
Tax Staff Cost		2,206,364	5,515,910	5,515,910
Business Subsidy Program Staff Cost		-	663,392	995,087
Benefits Staff Cost		-	13,577,596	20,366,394
Program Management Staff Cost	816,693	816,693	2,791,977	3,935,567
Financial and Agency Staff Cost		37,406	1,334,926	2,073,584
Non Personnel Services	172,776	1,333,095	6,872,517	9,412,802
Total One-time Office Space Costs	1,276,994	412,006		
Rule Making	302,087			

DEED ADMIN				42,299,345
DLI ADMIN				618,000
TOTAL ADMIN				**42,917,345**

FTE	FY21	FY22	FY23	FY24
MNIT FTE	5.25	6.25	6.75	6.75
Tax FTE		51.30	54.00	54.00
Outreach FTE		6.00	6.00	6.00
Business Subsidy Prog FTE			9.86	10.38
Benefits FTE			186.05	195.84
Program Management FTE	6.81	6.81	23.27	32.81
Financial and Agency FTE		0.50	11.37	17.66
TOTAL FTE	**12.06**	**70.86**	**297.31**	**322.82**

Outreach Programs

The bill appropriates funding for DEED to do outreach, education and technical assistance for employees and employers. DEED has assumed this outreach will begin in FY22 and be funded through a general fund appropriation in FY22.

The bill funds public outreach in FY22 from revenue collected under this program however, we have assumed those collections will not be sufficient to fund this work until FY23. We assumed that general fund appropriations would fund public outreach in FY22.

The bill also appropriates general fund dollars for grants for outreach to community-based groups providing outreach, education and technical assistance. We have assumed this work will begin in FY22.

Small Business Grants:

The bill caps Small Business Assistance Grants at $5,000,000 annually.

Expenditure Formula: MN.IT/Technology Costs

This fiscal note estimates costs for the revenue portion of the IT system with the functionality for premium assessment and collection. This fiscal note also estimates costs for the benefits portion of the IT system with the functionality to process applications, verify leave-triggering events, determine program eligibility, make benefit determinations, disperse benefits, prevent and detect fraud, and track the appeals process.

HF5 would require that the Department design and implement collections systems and business processes in order to begin collecting premiums in January 1, 2022.

HF5 would also require that the Department design and implement benefit payment systems and benefit processes in order to begin paying benefits in July 1, 2023.

Minnesota HF5 would require the Department to build a new system. The ability to design and build IT systems for collections and payments within the timeframe identified in HF5 will necessitate acquiring contract resources to design, build and deliver a system.

Our cost estimates are speculative in nature due to a lack of program business experience, short time-lines to implementation and an unknown degree of alignment with the existing UI system.

For comparison, the UI system cost about $40 million to build in vendor costs between 2002 and 2007. That cost did not include either UI staff time or MNIT staff time. That system build included approximately 30 staff FTEs per year, using MNIT and UI staff time. Accounting for in-house staffing costs, the cost of delivering the UI system up to its final phase in 2007 was closer to $60 million.

System build considerations:

- The UI system was completed over 10 years ago. Costs have increased.
- That work done by program staff with long tenures and experience in UI.
- The timeline was longer than for that proposed in HF 5.
- In its current form, the paid leave program is more complicated than UI and will necessitate the build of a new system.

These factors lead us to the conclusion that we will need to estimate this as primarily an IT "Vendored" solution. With this in mind, we estimated the hourly rate for resources at $220/hour for SFY2021 SFY2025 leading to an estimated cost of $67,840,758 million for the IT spend. We based this estimate on some initial conversations with vendors who could bid on a project of this size and the rates they would likely charge to undertake a project of this scale in this timeframe. We also based this cost on the IT build costs budgeted by Washington State in 2017, which totaled $63,192,021 over four years. The department will issue an RFP for this project and the cost of this build will depend on the responses to the RFP.

IT Build Staffing Breakdown	FY21	FY22	FY23	FY24	FY25
MNIT Staff FTE	5.25	6.25	6.75	6.75	7
Contractor FTE	15	32	32	30	22

Expenditure Formula: Cost Sharing Agreement with Unemployment Insurance Program

DEED will look for administrative efficiencies with the Unemployment Insurance program to the extent practicable. It should be noted, however, that the federal Unemployment Insurance law and regulations require a Cost Sharing Agreement whenever non-Unemployment Insurance activity is connected to an Unemployment Insurance tax collection process. Costs must be negotiated with the United States Department of Labor.

Expenditure Formula: One-Time Facilities Costs

On-going office space costs are built into the staffing cost estimates throughout the fiscal note. Staff costs also incorporate a one-time expenditure to set up office space of approximately $1.689 million.

Cumulative Projected Expenditures

Cumulative Projected Expenditures					
	FY2021	**FY2022**	**FY2023**	**FY2024**	**FY2025**
IWPR Calculated Annual Benefit Costs				780,568,922	780,568,922
Business Subsidy Program			5,000,000	5,000,000	5,000,000
Total IT Build Costs	7,264,000	15,019,544	15,025,172	14,109,972	10,449,172
IT Staff Costs	995,483	1,179,832	1,265,861	1,265,861	1,265,861
Outreach Staff Cost		629,962	629,962	629,962	629,962
Outreach Expenditures		2,245,370	4,490,741	4,490,741	4,490,741
Tax Staff Cost		2,206,364	5,515,910	5,515,910	5,515,910
Business Subsidy Program Staff Cost		0	663,392	995,087	995,087
Benefits Staff Cost		0	13,577,596	20,366,394	20,366,394
Program Management Staff Cost	816,693	816,693	2,791,977	3,935,567	3,935,567
Financial and Agency Staff Cost		37,406	1,334,926	2,073,584	2,073,584
Non Personnel Services	172,776	1,333,095	6,872,517	9,412,802	9,412,802

Total One-time Office Space Costs	1,276,994	412,006			
Rule Making	302,087				
Total Cost	**10,828,033**	**23,880,272**	**57,168,053**	**848,364,803**	**844,704,002**
General	**10,828**	**21,005**	**16,291**	**15,376**	**11,715**
Special Revenue			**35,756**	**827,868**	**827,868**
Special Revenue-Outreach		**2,875**	**5,121**	**5,121**	**5,121**

The IWPR does not model beyond the implementation year of the program. As the department does not have the ability to project the IWPR model into future years, we have not factored inflation into the premium collections, estimated benefit payments, or the administrative costs.

Long-Term Fiscal Considerations

Each calendar year following the calendar year beginning January 1, 2024 the commissioner must adjust the annual premium rates using a formula in the bill.

Local Fiscal Impact

Local governments are included in the program and will be subject to the premiums stipulated.

References/Sources

Paid Family and Medical Leave Insurance: Options for Designing and Implementing a Minnesota Program, UMN, February 2016: http://mn.gov/deed/images/pfml.pdf

Implementing Paid Family and Medical Leave Insurance in Connecticut, Institute for Women's Policy Research, January 2016:

U.S. Department of Labor Women's Bureau Paid Leave Analysis Grant Final Report for: Montgomery County, Maryland; Submitted by the Office of Legislative Oversight, Montgomery County, MD in partnership with The Institute for Women's Policy Research and The Center for American Progress, 2016: https://www.dol.gov/wb/media/MoCo_Final_Report_2016_Final_Narrative_Report.pdf

Fiscal notes for Colorado's proposed paid family and medical leave program and Washington States expanded paid leave program were used as references for this fiscal note.

-

Agency Contact: Darielle Dannen

Agency Fiscal Note Coordinator Signature: Colleen Hazel **Date:** 2/15/2020 3:15:13 PM

Phone: 651-259-7038 **Email:** colleen.hazel@state.mn.us

HF5 - 5A - Paid Family Medical Benefits Employee Leave

Chief Author: **Laurie Halverson**
Commitee: **Ways and Means**
Date Completed: **2/15/2020 3:37:16 PM**
Agency: Administrative Hearings

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X

Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.
The Department of Labor and Industry estimates that they will refer 1 claim annually to the OAH, estimating further that 1 claim every 4 years may require a hearing. As such, the Office of Administrative Hearings will need to update their expenditure and revenue formula to account for a minor increase in referrals in FY2022, amounting in an estimated $2,720 charged to DLI annually. There is no change to the main State Cost (Savings) table as a result of this update.

LBO Signature: Joe Harney **Date:** 2/15/2020 3:04:48 PM
Phone: 651-284-6438 **Email:** joe.harney@lbo.leg.mn

State Cost (Savings) Calculation Details
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium		Biennium	
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Administrative Hearings	-	-	23	-	-
Total	-	-	23	-	-
Biennial Total			23		-
2 - Revenues, Transfers In*					
Administrative Hearings	-	-	23	-	-
Total	-	-	23	-	-
Biennial Total			23		-

Bill Description

HF5-5A creates a family and medical benefit insurance program within the Department of Employment and Economic Development (DEED). The legislation authorizes DEED to conduct rulemaking to implement the provisions of Sec. 6, Family and Medical Benefit Insurance Program Creation, and Sec. 7, Eligibility.

Assumptions

DEED assumes a program of this size will require one large rulemaking at $302,087 in FY2021. Based on past practices, OAH assumes that a large rulemaking under chapter 14 will require an estimated 135 hours of ALJ time for activity related to rulemaking procedures. Of the estimated rulemaking amount of $302,087, $22,950 is for the estimated 135 hours of ALJ time for a large rulemaking.

OAH currently bills ALJ time for rulemaking at the MMB-approved billable rate of $170 per hour.

Expenditure and/or Revenue Formula

Estimated 135 hours of ALJ time for rulemaking activities related to implementing the requirements of Sec. 6, Family and Medical Benefit Insurance Program Creation, and Sec. 7, Eligibility = $22,950 charged to DEED in FY2021 pursuant to the requirements of Minn. Stat. § 14.53.

Long-Term Fiscal Considerations

The costs associated with the rulemaking activities are a one-time occurrence.

Local Fiscal Impact

References/Sources

Agency Contact: Denise Collins

Agency Fiscal Note Coordinator Signature: Denise Collins **Date:** 2/12/2020 11:53:06 AM

Phone: 651-3617875 **Email:** denise.collins@state.mn.us

HF5 - 5A - Paid Family Medical Benefits Employee Leave

Chief Author:	**Laurie Halverson**
Commitee:	**Ways and Means**
Date Completed:	**2/15/2020 3:37:16 PM**
Agency:	Human Services Dept

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	

Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	**FY2019**	**FY2020**	**FY2021**	**FY2022**	**FY2023**
General Fund	-	-	-	574	-
Total	**-**	**-**	**-**	**574**	**-**
Biennial Total			**-**		**574**

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2019	**FY2020**	**FY2021**	**FY2022**	**FY2023**
General Fund	-	-	-	-	-
Total	**-**	**-**	**-**	**-**	**-**

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Steve McDaniel **Date:** 2/14/2020 3:25:21 PM
Phone: 651-284-6437 **Email:** steve.mcdaniel@lbo.leg.mn

State Cost (Savings) Calculation Details
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2			**Biennium**		**Biennium**
Dollars in Thousands	**FY2019**	**FY2020**	**FY2021**	**FY2022**	**FY2023**
General Fund	-	-	-	574	-
Total	**-**	**-**	**-**	**574**	**-**
Biennial Total			**-**		**574**
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	-	-	574	-
Total	**-**	**-**	**-**	**574**	**-**
Biennial Total			**-**		**574**
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
Total	**-**	**-**	**-**	**-**	**-**
Biennial Total			**-**		**-**

Bill Description

This bill creates a family and medical leave benefit program administered by the Department of Employment and Economic Development, and requires all employers to grant an unpaid leave of absence for certain medical and family reasons. There are five types of benefits available through this program, including up to 12 weeks of coverage for an applicant's serious health condition or a pregnancy, and up to 12 weeks of benefits for bonding or family care. This legislation also includes up to 26 weeks of benefits within a 52-week period for family care of a covered service member or one or more "qualifying exigencies." The program is funded through contributions from an employer tax and employee payroll deductions.

The bill includes provisions related to the eligibility of applicants receiving public assistance from programs governed by Minnesota Statutes, chapter 256P, including General Assistance and Minnesota Supplemental Aid under 256D, child care assistance programs under 119B, Housing Support under 256I, and the Minnesota Family Investment Program and Diversionary Work Program governed by chapter 256J. The bill would also have implications for the Medical Assistance and MinnesotaCare programs governed by chapters 256B and 256L.

Assumptions

The bill defines and creates a family and medical benefit insurance program governed by Minnesota Statutes, chapter 268B. Data from persons participating in this program would be subject to the same benefit eligibility monitoring by local and state public welfare agencies as other types of leave, including eligibility monitoring for the Minnesota Family Investment Program, cash assistance under chapters 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B or 256L.

Article 2, Sections 1 and 3 exempt parents receiving family and medical leave benefits from certain employment services requirements and from an MFIP requirement to have an employment plan. Sections 1 and 3 modify 256J for recipients of the leave benefits to be consistent with the family leave program. These changes are required to make the employment requirements under MFIP and DWP consistent with the leave benefit program, since the leave benefits are meant to allow the parent to have leave from work. Article 2, Section 2 exempts benefit recipients from the Diversionary Work Program (DWP) requirements under the MFIP program. Article 2, Section 4 stipulates that benefits paid under Chapter 268B, including the family medical benefit insurance program, shall be considered "earned income" for the purposes of programs governed by Chapter 256P.

There is no fiscal impact to DHS programs included in the changes in Article 2 reflected in this estimate. The bill language establishes paid family and medical leave as a new benefit program, and Article 2 further clarifies how this income would be used to determine eligibility and benefits for MFIP. It also adds the new family and medical leave program to the list of "earned income" eligibility criteria in Chapter 256P which governs General assistance and Minnesota supplemental aid under chapter 256D, child care assistance programs under chapter 119B, and Housing Assistance governed by chapter 256I, in addition to MFIP and DWP. The fiscal impact to MFIP and other economic assistance programs is indeterminate in that it may result in increased or decreased expenditures, depending primarily on the pattern of take-up of the leave benefit among actual and potential economic assistance recipients. In addition, this benefit might have longer-run impacts that could lead to changed employment and wages that would affect the conditions under which families take-up economic assistance benefits. This program would also affect Medical Assistance and MinnesotaCare eligibility, but the impact is indeterminate since the program could either increase or decrease eligibility. This estimate therefore also does not include any fiscal impacts resulting from changes in health care program eligibility enrollment or disenrollment.

The fiscal costs included in this estimate are for impacts on DHS systems, including MAXIS, MEC², and METS. This new income type must be considered in eligibility determination for the following programs: MFIP, DWP, SNAP, Housing Support, MSA, GA, RCA, MA, MinnesotaCare, and CCAP. Because MAXIS is an integrated system, there are also implications for title IV-E. Since each of these programs have unique eligibility criteria, policies, and program rules regarding how various categories of income are treated and the level of benefits received by individual applicants, programming changes to each of these systems are necessary.

This estimate assumes that systems changes would be completed by 07/01/2023.

Expenditure and/or Revenue Formula

Systems Costs:

System	Total Hours	Total Cost in FY22	Total annual maintenance costs beginning in FY24	State Share Percentage
MAXIS	7,412	$ 617,611	$ 123,522	55%
MEC2	1,585	$ 132,455	$ 26,491	55%
METS	6,074	$ 598,030	$ 119,606	27%

Total Costs:

Fiscal Tracking Summary ($000's)						
Fund	**BACT**	**Description**	**FY2020**	**FY2021**	**FY2022**	**FY2023**
GF	11	MAXIS systems costs state share @ 55%			340	0
GF	11	MEC2 systems costs state share @ 55%			73	0
GF	11	METS systems costs state share @ 27%			161	0
		Total Net Fiscal Impact			**574**	
		Full Time Equivalents				

Long-Term Fiscal Considerations

The long-term fiscal impact to MFIP and other economic assistance programs is indeterminate in that it may result in increased or decreased expenditures, depending primarily on the pattern of enrollment in the leave benefit among actual and potential economic assistance recipients. As the paid family and medical leave program becomes a new benefit option for Minnesotans, particularly low-wage workers without current access to such a program who might otherwise turn to cash assistance, it is possible that enrollment could decline. In addition, this benefit might have longer-run impacts that could lead to changed employment and wages that would affect the conditions under which families take-up economic assistance benefits. This program could also have longer-term impacts for Medical Assistance and MinnesotaCare eligibility and enrollment, but the impact is indeterminate at this time.

The state share of annual maintenance costs for the systems changes required in this bill is $115,000 beginning FY2024.

Local Fiscal Impact

Impact to counties is indeterminate at this time. Depending on the above long-term considerations, it's possible that this new paid family and medical leave program could impact the workloads of caseworkers as they see changes to the number of people enrolling in cash assistance or public health care programs.

References/Sources

MNIT @ DHS

Agency Contact: Elyse Bailey 651-431-2932

Agency Fiscal Note Coordinator Signature: Elyse Bailey **Date:** 2/14/2020 2:10:59 PM

Phone: 651-431-2932 **Email:** elyse.bailey@state.mn.us

HF5 - 5A - Paid Family Medical Benefits Employee Leave

Chief Author:	**Laurie Halverson**
Commitee:	**Ways and Means**
Date Completed:	**2/15/2020 3:37:16 PM**
Agency:	Labor and Industry Dept

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	

Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
Reductions shown in the parentheses.

State Cost (Savings)			**Biennium**		**Biennium**
Dollars in Thousands	**FY2019**	**FY2020**	**FY2021**	**FY2022**	**FY2023**
General Fund	-	-	528	518	467
Total	**-**	**-**	**528**	**518**	**467**
Biennial Total			**528**		**985**

Full Time Equivalent Positions (FTE)			**Biennium**		**Biennium**
	FY2019	**FY2020**	**FY2021**	**FY2022**	**FY2023**
General Fund	-	-	2	3.5	3.5
Total	**-**	**-**	**2**	**3.5**	**3.5**

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Christian Larson **Date:** 2/14/2020 2:59:24 PM
Phone: 651-284-6436 **Email:** christian.larson@lbo.leg.mn

State Cost (Savings) Calculation Details
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2			Biennium		Biennium
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	528	518	467
Total	**-**	**-**	**528**	**518**	**467**
Biennial Total			**528**		**985**
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	-	528	518	468
Total	**-**	**-**	**528**	**518**	**468**
Biennial Total			**528**		**986**
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	1
Total	**-**	**-**	**-**	**-**	**1**
Biennial Total			**-**		**1**

Bill Description

This bill establishes a state administered paid employment leave benefit for all Minnesota workers to access for family, pregnancy, bonding, and serious medical conditions. The benefit is to be administered by the Department of Employment and Economic Development (DEED) with enforcement of the employment protections identified in the bill conducted by the Department of Labor and Industry (DLI). Contributions to fund such a benefit will be assessed through payroll deductions collected by DEED and then dispersed to eligible applicants by DEED. DLI will investigate allegations of employer retaliation or interference with the exercise of rights established in the bill, including the right to continued insurance and reinstatement after leave. DLI will also ensure employer compliance with the limitations on how much of the annual premiums may be deducted from employee wages. The bill also provides that DLI may offer conciliation services to employers and employees to resolve disputes concerning alleged violations of employment protections articulated in the bill.

The bill provides authority for DLI to enforce premium deductions and employment protections starting July 1, 2020, however the premium deductions from employers, employees, and self-employed begin January 1, 2022.

Eligibility for leave benefits begins July 1, 2023.

Assumptions

DLI assumes the following:

- Its enforcement role and outreach responsibilities are expanded by this bill.
- It will enforce employment protections as articulated in Sec. 14 of this bill (268B.09, subd. 1 6)
- It will enforce limitations on deductions from worker's wages as articulated in Sec. 17 (268B.12, subd. 2).
- It may offer conciliation services to resolve disputes informally, as stated in Sec 25 of this bill (268B.20).
- It assumes it is not responsible for enforcing the worker protections in these sections for employers' private plans approved by DEED.
- It assumes that complaints related to premium deductions will begin after January 1, 2022.
- Complaints related to employment protections will begin after July 1, 2023.

- DEED is responsible for the employer misconduct penalties.

Complaints Employment Protections

DLI estimates that approximately 60 workers will make employment protection complaints to DLI each year beginning July 1, 2023. This estimate is based on the number of FMLA complaints received by the United States Department of Labor (USDOL) each year. This is a relevant comparison because the employment protections in the FMLA are similar to those in this bill (prohibition of retaliation and interference, continued insurance, and right to reinstatement). The USDOL received 1,040 FMLA complaints in fiscal year 2019. The number of these complaints proportionate to the employee population of Minnesota is approximately 20.

A notable difference between the FMLA's employment protections and this bill's employment protections is the coverage. This bill applies to more employees than the FMLA and the employment protections attach earlier in the employment relationship. The FMLA only applies to employers with 50 or more employees and to employees who have been employed for twelve months. Another notable difference is that the FMLA does not allow for safety leave. DLI also assumes that it will receive a higher number of complaints under this bill while the protections are new, and employers are learning of their obligations. Based on the numbers from the USDOL, taking into consideration the differences in the scope and coverage between the FMLA and this bill and the fact that these protections are new, DLI estimates that it will receive employment protection complaints from approximately 60 workers each year.

DLI believes that denial of employment protections may take several forms including:

- Employer interfering with an employee's ability to take leave;
- Employer making an employee agree to waive their rights under this law or assign their benefits elsewhere;
- Employer failing to continue employee insurance while an employee is out on leave;
- Employer failing to reinstate an employee to their prior position upon return from leave; or
- Employer reinstating an employee and paying fewer wages, providing fewer benefits or loss of seniority.

DLI assumes that investigative time will vary based upon complexity of the case, completeness of records, availability and cooperation of witnesses and employers to bring about the resolution of complaints. In addition, not all complaints will lead to full investigations. Some claims will be resolved quickly, some may be determined to show no legal merit, while other claimants may seek their own legal representation and pursue a private right of action. DLI may engage in a strategy of informal conciliation to resolve these issues. DLI anticipates that due to the nature of employment protection complaints, there will be complex, fact-intensive cases that will involve in-depth investigations.

FTE Estimate Formula for 60 employment protection complaints:

45% Cases at 24 hours of investigative time. (27 x 24 = 648 hours)

40% Cases at 40 hours of investigative time (24 x 40 = 960 hours)

10% Cases at 80 hours of investigative time (6 x 80 = 480 hours)

5% Cases at 120 hours of investigative time (3 x 120 = 360 hours)

Total investigative hours = 2,448 divided by 2,088 hours = approximately 1.2 FTE investigators annually starting in FY2024

Complaints Employee Premium Charge Backs

DLI assumes that it will not begin enforcement of the limitations on employee premium charge backs until employers start making deductions in FY2022. DLI anticipates that it will receive more complaints of premium deduction violations in the first few years after deductions begin but that there will be a reduction in these complaints over time as employers become familiar with the limitations. DLI assumes that it will receive approximately 100 complaints that will result in an investigation related to employee premium charge backs. DLI assumes that investigative time will vary based upon complexity of the case, completeness of records, availability and cooperation of witnesses and employers to bring about the resolution of complaints. It is anticipated that most employee premium charge back investigations will not be complex and can be resolved quickly.

FTE Estimate Formula for 100 premium charge back complaints:

80% Cases at 24 hours of investigative time. (80 x 24 = 1,920 hours)

15% Cases at 40 hours of investigative time (15 x 40 = 600 hours)

3% Cases at 80 hours of investigative time (3 x 80 = 240 hours)

2% Cases at 120 hours of investigative time (2 x 120 = 240 hours)

Total investigative hours = 3,000 divided by 2,088 hours = approximately 1.5 FTE investigators annually starting FY2022

Program Director

It is anticipated that the division will require 1 FTE to fill the role of State Program Administrative Director to supervise the work related to DLI's enforcement and outreach responsibilities related to this bill.

Start up, IT, and Outreach

Outreach will be needed to raise public awareness statewide about the Paid Family and Medical Leave Benefits.

Beginning in FY2021, DLI anticipates 1 FTE for investigative implementation, outreach, and to develop, launch and execute various engagement strategies about retaliation protections and allowable deductions from employee paychecks. In addition, an effective outreach strategy will require collaboration with DEED to align messaging and engagement of employer and worker advocate organizations.

Public outreach will require staff to:

- Develop training and presentations for employees
- Develop training and presentations for employers
- Create and maintain web content
- Manage advertising contracts
- Handle media relations
- Translation of materials into multiple languages
- Update above materials as legal determinations are made and/or statutes change

DLI will work with HR software companies to communicate new requirements as they adjust their programs to better serve Minnesota employers.

Case Management System

DLI will need to expand its labor standards case management system to track PFML complaints, investigations, penalties, and court actions. It is assumed the current technology system can be used for this purpose, however DLI would need to build out a separate process within its technology system for PFML. The initial investment is anticipated to be $200,000 due to integrating with DEED's system. The on-going additional maintenance costs are $3,000 per year.

Office of Administrative Hearings

On average, DLI estimates it would refer 1 claim annually to the Office of Administrative Hearings (OAH). OAH estimates that 1 claim every 4 years may require a hearing. Averaging the number of administrative law judge (ALJ) hours in similar matters referred from DLI that ultimately go to hearing, it is assumed that each of the hearings will require an estimated 55 hours of ALJ time at the currently approved billable rate of $170 per hour. The remaining cases appealed to OAH are resolved before hearing and average 3 hours of ALJ time. Total estimated costs for OAH is $2,720 per year.

Penalties

In CY2018, the Department assessed and collected a penalty in 1.2% of all investigations. For new penalties specific to PFML, DLI estimates the average collected penalty amount will be $500. This would result in new revenues in the amount of $960 (160 investigations X 1.2% = 1.92 penalties collected X $500 = $960)

Expenditure and/or Revenue Formula

Penalty Revenue	2021	2022	2023	2024
Records Penalties	0	0	480	960

Labor Investigator Sr - MAPE 12L	2021	2022	2023	2024
FTE	1	2.5	2.5	3.7
Salary per FTE (midpoint)	66,190	66,190	66,190	66,190
Fringe Benefits (36% of Salary)	23,167	23,167	23,167	23,167
Indirect (24% of Salary/Fringe)	22,312	22,312	22,312	22,312
Salary / Fringe / Indirect	111,669	279,172	279,172	413,175
Non-Personnel Services	63,082	82,705	32,705	48,404
Cumulative Cost	174,751	361,877	311,877	461,579

State Prog Admin Dir - MMA 21k	2021	2022	2023	2024
FTE	1	1	1	1
Salary per FTE (midpoint)	81,536	81,536	81,536	81,536
Fringe Benefits (35% of Salary)	28,538	28,538	28,538	28,538
Indirect (24.97% of Salary/Fringe)	27,485	27,485	27,485	27,485
Salary / Fringe / Indirect	137,559	137,559	137,559	137,559
Non-Personnel Services	13,082	13,082	13,082	13,082
Cumulative Cost	150,641	150,641	150,641	150,641

Cumulative Expenditures	2021	2022	2023	2024
Labor Investigator Sr	174,751	361,877	311,877	461,579
State Program Admin Director	150,641	150,641	150,641	150,641

OAH Legal Fees	-	2,720	2,720	2,720
IT Case Mgmt Build	200,000	-	-	-
IT Case Mgmt User License/Maintenance	3,000	3,000	3,000	3,000
Cumulative Expenditures	528,392	518,239	468,239	617,940

Please note in FY2024, DLI anticipates $617,940 in expenditures and 4.7 total FTE related to this bill, however section 3 of the fiscal note worksheet only shows costs and FTE through FY2023.

Long-Term Fiscal Considerations

DLI anticipates that complaints and violations have the potential to maintain these levels or possibly rise in the near term due to this being a new benefit. DLI doesn't anticipate a reduction in complaints until following FY2025

Local Fiscal Impact

None

References/Sources

Minnesota Rulemaking Manual, September 2018

Agency Contact:

Agency Fiscal Note Coordinator Signature: Jacob Gaub **Date:** 2/14/2020 7:26:12 AM

Phone: 651-284-5812 **Email:** jacob.gaub@state.mn.us

HF5 - 5A - Paid Family Medical Benefits Employee Leave

Chief Author:	**Laurie Halverson**
Commitee:	**Ways and Means**
Date Completed:	**2/15/2020 3:37:16 PM**
Agency:	Legislature

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X

Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	11	70	139
Total	**-**	**-**	**11**	**70**	**139**
Biennial Total			**11**		**209**

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	-	-	-
Total	**-**	**-**	**-**	**-**	**-**

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.
The payroll data in MMBs fiscal note, used to calculate the estimated employer paid premiums as a result of this bill, includes all employees operating in the SEMA4 Human Resources System. These figures include employees in the LCC, OLA, and Senate, who are also accounted for in the Legislatures fiscal note. This is estimated to be approximately $27 million in projected payroll for FY2022 and FY2023. The net effect of both MMB and the Legislature accounting for the same staff is an estimated decrease in the main biennial cost-table on pg. 1 across the general fund and all years of approximately $122,000.

LBO Signature: Joe Harney **Date:** 2/15/2020 2:53:50 PM
Phone: 651-284-6438 **Email:** joe.harney@lbo.leg.mn

State Cost (Savings) Calculation Details
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2			Biennium		Biennium	
Dollars in Thousands		FY2019	FY2020	FY2021	FY2022	FY2023
General Fund		-	-	11	70	139
	Total	**-**	**-**	**11**	**70**	**139**
	Biennial Total			**11**		**209**
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund		-	-	11	70	139
	Total	**-**	**-**	**11**	**70**	**139**
	Biennial Total			**11**		**209**
2 - Revenues, Transfers In*						
General Fund		-	-	-	-	-
	Total	**-**	**-**	**-**	**-**	**-**
	Biennial Total			**-**		**-**

Bill Description

The bill establishes a Family and Medical Benefits and Insurance program to be administered by Minnesota Department of Employment and Economic Development (DEED) and requires employers to grant unpaid leave of absences for certain medical and family reasons.

Employers, including government and nonprofit entities, will fund this program and may deduct up to 50 percent of total annual premium cost with deductions from employee wages. Contributions will be calculated using a taxable wage base consistent with FICA tax to a maximum salary cap (currently $137,700). The 2022 employer premium rate is set at .60 percent for the calendar year. For premiums beyond 2023, DEED will set the employer premium rates annually based on a formula as stated in the bill.

DEED will start collecting premiums on January 1, 2022. Benefits will be available for qualifying employees starting July 1, 2023

Assumptions

1. This note projects the fiscal impact of the bill for the House, Senate, the Office of the Legislative Auditor (OLA) and the joint offices and commissions under the fiscal oversight of the Legislative Coordinating Commission (LCC). There are approximately 700 legislative employees.
2. The entities within the Legislature will participate in the Family and Medical Benefits and Insurance program.
3. The entities within the Legislature will begin paying the required employer premiums on January 1, 2022 (last six months of FY22) at a premium rate of .6 percent. For this note we assume that the annual premium rate will continue to be .6 percent.
4. Employee payroll deductions of 50 percent of the premium (.3 percent) may begin on January 1, 2022 (FY22). For this fiscal note, we assume that the House, Senate and LCC may deduct 50 percent of the total annual premium from employee wages. Additionally, our objective is for this fiscal note response to be consistent with regards to this specific assumption with the responses of other state agencies. The net fiscal cost to the employer is .3 percent after considering the 50 percent deduction of.3 percent to employee payroll.
5. The House will incur a one-time cost to update payroll and timecard system update of $11,000 in FY21. The Senate, OLA and LCC use the state's timecard and payroll system. For this note, we assume that projected cost to update the state system will be addressed by the fiscal note authored by Minnesota Management and Budget (MMB).
6. Legislative members, as elected officials, do not meet the bill's definition of covered employment. We assume that legislative members will not be eligible for the program benefits and are not included in the cost calculations of this fiscal note.
7. Nominal cost for required posting requirements will be absorbed by the Legislature.

8. We assume the payroll for temporary / session-only staff for the House, Senate, and LCC will vary between a short session which begins in early February and end in late May (FY22, FY24) and a long session which will begin in early January and end in late May (FY23).
9. An assumed number of employees will claim benefits from the new program up to 12 weeks per fiscal year beginning FY24. We assume that one percent of the position duties will need to be covered and temporary staff will be hired to backfill the position for 12 weeks during legislative sessions. A weighted salary for the entity is used for determining backfill cost for the .23 FTE temporary hire (full time for 12 weeks per fiscal year). FICA cost will be paid the temporary employees. Temporary employees will not qualify for any other employer contribution benefits.

Expenditure and/or Revenue Formula

The following table shows the annual salaries cost for fiscal years which include a short session (even years) and for fiscal years that include a long session (odd years) and for fiscal years and the associated employer premium contribution. For this note we assume payroll to remain consistent as shown below for FY21 through FY24:

Entity	Total Annual Salaries Short Session Yr	Total Annual Salaries Long Session Yr	Annual Employer Premium Contribution (0.3%) - Short Session Yr	Annual Employer Premium Contribution (0.3%) - Long Session Yr	Annual Employee Payroll Deduction Contribution (0.3%) - Short Session Yr	Annual Employee Payroll Deduction Contribution (0.3%) - Long Session Yr
House	19,411,000	19,646,000	58,000	59,000	58,000	59,000
Senate	14,229,000	14,371,000	43,000	43,000	43,000	43,000
OLA	5,110,000	5,110,000	15,000	15,000	15,000	15,000
LCC	7,679,000	7,727,000	23,000	23,000	23,000	23,000
Total	46,429,000	46,854,000	139,000	140,000	139,000	140,000

The following table shows the annual fiscal year cost of backfilling positions during legislative sessions which will begin on July 1, 2023 (FY24) and it addressed in the long term fiscal considerations section.

Entity	Weighted Average Annual Salary	No of Backfilled Positions	Salary for 12 Weeks of Total Temp Backfilled Employment	FICA	Total Backfill Cost per FY
House	$69,000	3	$48,000	$4,000	$52,000
Senate	$60,000	3	$42,000	$3,000	$45,000
OLA	$58,000	1	$13,000	$1,000	$14,000
LCC	$76,000	1	$18,000	$1,000	$19,000
Total					$130,000

The following summary table shows the total projected cost cost per fiscal year per entity for the employer premium cost and for the cost of backfilling positions during legislative sessions and the total cost for the Legislature. Note that the net employer premium cost shown is after the employee payroll deductions of 50 percent of the cost of the premiums and that the employer the premium cost will start January 1, 2022 which is the last six months of FY22. Backfill cost will not start until FY24 since employees cannot start to claim benefits until July 1, 2023 and it is also addressed in the long-term fiscal considerations section.

Cost Category	FY21	FY22	FY23	FY24
House Payroll/Timecard System Update	$11,000	$0	$0	$0

House Employer Premium Cost (0.3%)	$0	$29,000	$58,000	$59,000
House Position Backfill Cost	$0	$0	$0	$52,000
Total House Cost	**$11,000**	**$29,000**	**$58,000**	**$111,000**
Senate Employer Premium Cost (0.3%)	$0	$21,500	$43,000	$43,000
Senate Position Backfill Cost	$0	$0	$0	$45,000
Total Senate Cost	**$0**	**$21,500**	**$43,000**	**$88,000**
OLA Employer Premium Cost (0.3%)	$0	$7,500	$15,000	$15,000
OLA Position Backfill Cost	$0	$0	$0	$14,000
Total OLA Cost	**$0**	**$7,500**	**$15,000**	**$29,000**
LCC Employer Premium Cost (0.3%)	$0	$12,000	$23,000	$23,000
LCC Position Backfill Cost	$0	$0	$0	$19,000
Total LCC Cost	**$0**	**$12,000**	**$23,000**	**$42,000**
Net Total Payroll/Timecard System Update	**$11,000**	**$0**	**$0**	**$0**
Net Total Employer Premium Cost	**$0**	**$70,000**	**$139,000**	**$140,000**
Net Total Position Backfill Cost	**$0**	**$0**	**$0**	**$130,000**
Net Total Cost	**$11,000**	**$70,000**	**$139,000**	**$270,000**

Long-Term Fiscal Considerations

The agencies of the Legislature may consider creating a private plan as a substitute to the state's plan in future years. Whether they do this or not, employer premiums will continue in the future at the prescribed annual premium rate. We also assume that employee payroll deductions of 50 percent of the cost of the premium may also continue. Backfill cost of will continue each for the Legislature to cover approximately one percent of the positions of each agency for legislative sessions.

Local Fiscal Impact

Although it is assumed that local government will incur of fiscal impact, those cost are not calculated in the Legislature's fiscal note.

References/Sources

Barb Juelich, House of Representatives
Kelly Knight, House of Representatives
Bill Marx, House of Representatives
Patrick McCormack, House of Representatives
Tom Bottern, Minnesota Senate
Cal Ludeman Minnesota Senate
Betty Myers, Minnesota Senate
Eric Nauman, Minnesota Senate
Eric Jacobson, Office of the Legislative Auditor
Jim Nobles, Office of the Legislative Auditor
Greg Hubinger, Legislative Coordinating Commission

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HF5 - 5A - Paid Family Medical Benefits Employee Leave

Chief Author:	**Laurie Halverson**
Commitee:	**Ways and Means**
Date Completed:	**2/15/2020 3:37:16 PM**
Agency:	Minn Management and Budget

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	

Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)			Biennium		Biennium	
Dollars in Thousands		**FY2019**	**FY2020**	**FY2021**	**FY2022**	**FY2023**
General Fund		-	-	39	1,872	3,598
All Other Funds		-	-	-	3,950	7,618
	Total	**-**	**-**	**39**	**5,822**	**11,216**
		Biennial Total		**39**		**17,038**

Full Time Equivalent Positions (FTE)			Biennium		Biennium	
		FY2019	**FY2020**	**FY2021**	**FY2022**	**FY2023**
General Fund		-	-	-	-	-
All Other Funds		-	-	-	-	-
	Total	**-**	**-**	**-**	**-**	**-**

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.
The payroll data in MMBs fiscal note, used to calculate the estimated employer paid premiums as a result of this bill, includes all employees operating in the SEMA4 Human Resources System. These figures include employees in the LCC, OLA, and Senate, who are also accounted for in the Legislatures fiscal note. This is estimated to be approximately $27 million in projected payroll for FY2022 and FY2023. The net effect of both MMB and the Legislature accounting for the same staff is an estimated decrease in the main biennial cost-table on pg. 1 across the general fund and all years of approximately $122,000.

LBO Signature: Joe Harney **Date:** 2/15/2020 2:53:03 PM
Phone: 651-284-6438 **Email:** joe.harney@lbo.leg.mn

State Cost (Savings) Calculation Details
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	Biennial Total			**39**		**17,038**
1 - Expenditures, Absorbed Costs*, Transfers Out*						
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All Other Funds		-	-	-	3,950	7,618
	Total	**-**	**-**	**39**	**5,822**	**11,216**
	Biennial Total			**39**		**17,038**
2 - Revenues, Transfers In*						
General Fund		-	-	-	-	-
All Other Funds		-	-	-	-	-
	Total	**-**	**-**	**-**	**-**	**-**
	Biennial Total			**-**		**-**

Bill Description

This bill relates to the provision of employee paid family, pregnancy, bonding and medical condition benefits.

Assumptions

Estimates and projected estimates of headcount and wages, as well as the split of payroll costs between the general fund and all other state funds, are based on an analysis of data from the SEMA4 human resources system.

This fiscal note represents costing for agencies that used the SEMA4 system as of FY 2019.These include the state Executive Branch (including Minnesota State), Judicial Branch, retirement agencies and portions of the Legislative Branch (Legislative Coordinating Commission, Legislative Auditor & Senate).
As of FY 2019, there were 54,253 employees in the state agencies listed above.

Total state employment (headcount) will grow at 0.4% annually reflecting the average annual growth since FY 2009. No growth is assumed after FY 2021 per fiscal note policy.

The fiscal note assumes the State of Minnesota, as an employer, will participate in both the family benefit program and the medical benefit program.

Premium payments will begin January 1, 2022, and the benefit to employees will begin July 1, 2024.
Projected state payroll represents total payroll of employees making less than $137,700, the FICA wage limit for 2020, which is the maximum salary subject to the premium, as required in the bill. This represents 98 percent of total state payroll.

Employees will be responsible for paying one half of the premiums for the benefit, as allowed in the bill.
The Family and Medical Leave Act (“FMLA”) entitles eligible employees to up to a total of 12 weeks of unpaid leave per year, with continued employer contribution to insurance, for pregnancy leave, bonding leave, leave for the employee’s own serious health condition, or leave to care for a child, spouse or parent with a serious health condition. Employees are eligible for FMLA if they are employed by the employer for 12 months and for 1,250 hours in the 12 months immediately preceding the leave.
More state employees will use the proposed benefit than currently use unpaid leave under the FMLA because the

proposed benefit is a paid benefit.

More employees will meet the eligibility criteria for the proposed benefit (sufficient wage credits from an employer to establish an unemployment benefit account) than meet the FMLA eligibility criteria (work for the employer for 12 months and 1,250 hours).

State employees will use the proposed benefit in circumstances not covered by the FMLA, for example to care for the serious health condition of a sibling (which is subject to the proposed benefit, but not subject to the FMLA).

State employees will use the proposed benefit for more weeks than they use FMLA leave because FMLA is limited to a total of 12 weeks per year, and an employee could be eligible for up to a total of 24 weeks of the proposed benefit per year if they require both the medical benefit (e.g., for pregnancy) and the family benefit (e.g., for bonding).

The staffing costs below are based on the assumption that more state employees will use the proposed benefit than currently use unpaid FMLA leave and for longer periods, as described above.

For most state agencies, this fiscal note assumes that no additional staffing costs for the employees who take the leave provided in this bill. Some agencies may hire additional staff in certain circumstances, while others may redistribute duties across existing employees. However, it is assumed that staffing changes will be necessary at 24 hour/7 day operations within agencies, as noted below. The Departments of Human Services, Corrections, and Veterans Affairs account for 91 percent of these employees.

Notices will be translated and printed in the primary languages spoken in the workplace spoken by less than 0.5% of the state population. It is assumed Spanish, Hmong and Somali translation will be undertaken by DEED. According to the Minnesota State Demographer, Minnesotans speak more than 100 languages though not all of these will be represented by state employees. The fiscal note assumes that the State of Minnesota (as an employer) will be responsible for translating materials into an additional 10 languages. It is assumed the document will be roughly 500 words long and will require proof reading and editing by an approved vendor. The fiscal note also assumes that one new language will be added each year to accommodate new employees from diverse cultural backgrounds.

Expenditure and/or Revenue Formula

Accounting/Payroll System Costs: MMB will need to update its payroll system to accommodate the changes required in the bill, including the collection of the premium. Implementation costs will begin in FY 2021 to ensure completion by the January 1, 2022, premium collection implementation date, with annual maintenance costs each year thereafter. The costs identified below have been reviewed and approved by the MMB Chief Business Technology Officer (CBTO). All costs will be incurred in the general fund.

MMB implementation costs (FY 2021) General Fund

Programmer Costs	$20,000
Functional Costs	$8,200
Total Implementation Costs (FY 2021)	$28,200

MMB annual maintenance costs (FY 2022 and FY 2023) General Fund

Reapplication of System Modifications	$7,175
Withholding & Reporting	$5,125
Total Ongoing Annual Costs	$12,300

Notice/Translation Requirements: The bill contains notice requirements to employees and independent contractors. Employers must post a notice in conspicuous places providing notice of benefits provided in the bill. Employers must also provide additional notice to each employee either 30 days before the collection of premiums, or within 30 days of the date of the employment, whichever is later. This notice to employees must be acknowledged by the employee, such as with a signature. Employers must provide additional notice to contractors within 30 days of July 1, 2023, or at the start of the contract, whichever is later. All notices can be provided in either paper or electronic format under certain restrictions. Note that the costs below do not include the potential costs of producing online materials that would be accessible to the blind or visually impaired whose primary language is not English. While MMB believes this accessibility work would result in a cost, MMB has been unable to find vendors who provide this service to estimate the fiscal impact.

Translation costs: Due to the alternative language requirements in the bill, the fiscal note assumes the translation of notices into 10 additional languages in FY 2022 (to ensure notice is provided prior to the January 1, 2022, premium collection start date). MMB also assumes needing to translate notices into one additional language each year. MMB's survey of vendors indicates that the translation costs will total approximately $500 per language. The fiscal note assumes costs will be incurred by MMB on behalf of the executive branch.

MMB translation costs for 10 languages and notification design/printing (FY 2022) General Fund: $5,000
MMB translation cost for 1 additional language each year thereafter (FY 2023) General Fund: $500

Printing costs: The bill requires the posting of notices in conspicuous places. Based on MMB's recent experience providing Fraud Awareness Week notices to executive branch agencies, MMB estimates the need to distribute 300 posters per language across executive branch agencies at a cost of $600 per language. The fiscal note assumes costs will be incurred by MMB on behalf of the executive branch.

MMB printing costs: $600 x 10 languages (FY 2022) General Fund: $6,000
MMB printing cost for 1 additional language (FY 2023) General Fund: $600

Notice acknowledgement costs: The bill also requires additional notice to employees and contractors. The notice to employees must be acknowledged in writing, such as with a signature, and must be provided to all employees prior to the collection of premiums, as well as to additional employees. MMB assumes these notices will be provided electronically; thus, there will not be significant printing costs. However, MMB assumes costs to state agencies to receive written acknowledge from employees. The fiscal note does not assume these costs will be incurred by MMB; rather this represents the collective cost to state agencies (operating in the SEMA4 system) required to provide notice with acknowledgement. For the purposes of estimating a statewide cost, MMB assumes state agencies will use DocuSign to receive acknowledgement from employees. This was the method used to obtain acknowledgements required in the wage theft legislation passed in 2019 and is an efficient method to distribute and track documents needing signature. The cost is $4 per form. The calculations below include the 54,253 employees at state agencies operating in the SEMA4 system as of FY 2019, grown by 0.4% annually through FY 2021. Additionally, MMB assumes 5,670 new employees will enter state service each year after the initial notice is provided.

Figures are rounded in thousands.

State agency initial notice acknowledgement costs: $4 per notice x 54,688 employees (FY 2022) = approximately $219,000
State agency addition acknowledgement costs: $4 per notice x 5,670 employees (FY 2023) = approximately $23,000

This fiscal note assumes that 32% of the notice acknowledgment costs will be paid from the general fund and 68% from all other state funds.

Fiscal Year	Notice Acknowledgement Costs	Percent Fund Allotment	Costs by Fund
FY 2022	$219,000	32% General Fund	$70,080
	$219,000	68% All Other Funds	$148,920
FY 2023	$23,000	32% General Fund	$7,360
	$23,000	68% All Other Funds	$15,640

Employer Paid Premium Costs: It is assumed that the premium rate will be 0.60% starting January 1, 2022 (50% of FY 2022). It is assumed that employees will pay for one half of the premium, as allowed in the bill, making the employer-paid premium rate 0.3%. In FY 2019, total payroll stood at $3.537 billion for employees in the executive branch (including Minnesota State), judicial branch, retirement agencies and portions of the Legislature (LCC, Legislative Auditor and Senate). Payroll is assumed to increase by approximately 4.0% from FY 2019 to FY 2020 to a base of $3.679 billion. Payroll is assumed to increase by approximately 1.3% from FY 2020 to FY 2021 to reflect pay increases due to step progression for a base of $3.726 billion. Payroll is assumed constant after FY 2021 per fiscal note policy. Figures are rounded in thousands.

Fiscal Year	Projected State Payroll	Premium Rate	Percent of FY that Premium Rate Applies	Total Premium Cost

FY 2019	$ 3,537,109,000	0%	0%	$0
FY 2020	$ 3,678,594,000	0%	0%	$0
FY 2021	$ 3,726,416,000	0%	0%	$0
FY 2022	$ 3,726,416,000	0.30%	50%	$ 5,590,000
FY 2023	$ 3,726,416,000	0.30%	100%	$ 11,179,000

Premium Costs= Projected State Payroll X ½ Premium Rate (employees are responsible for the other half) when the premium is effective.

Total costs due to employer paid premium costs FY 2022: $5,590,000

Total costs due to employer paid premium costs FY 2023: $11,179,000

This fiscal note assumes that 32% of the costs noted below will be paid from the general fund and 68% from all other state funds. Figures are rounded in thousands.

Fiscal Year	Employer Paid Premium Costs	Percent Fund Allotment	Costs by Fund
FY 2022	$5,590,000	32% General Fund	$1,789,000
	$5,590,000	68% All Other Funds	$3,801,000
FY 2023	$11,179,000	32% General Fund	$3,577,000
	$11,179,000	68% All Other Funds	$7,602,000

Total Costs:

Total Costs FY 2020 through FY 2023:

	2020	2021	2022	2023
MMB Accounting/Payroll System Costs	$0	$28,200	$12,300	$12,300
MMB Notice Translation/Printing Costs	$0	$11,000	$1,100	$1,100
State Agency Notice Acknowledgement Costs	$0	$0	$219,000	$23,000
State Agency Employer Paid Premium Costs	$0	$0	$5,590,000	$11,179,000
Total Costs	$0	$39,200	$5,822,400	$11,215,400

Total Costs FY 2020 through FY 2023 by Fund:

	Total Annual Costs	Fund	Costs by Fund
FY 2020	$0	General Fund	$0
		All Other Funds	$0
FY 2021	$39,200	General Fund	$39,200
		All Other Funds	$0
FY 2022	$5,822,400	General Fund	$1,872,480
		All Other Funds	$3,949,920
FY 2023	$11,215,400	General Fund	$3,597,760
		All Other Funds	$7,617,640

<u>Long-Term Fiscal Considerations</u>

Payroll system, notification, and premium costs are expected to continue beyond the budget horizon. In addition, there are costs to state agencies due to changes in staffing at 24 hour/7 day operations within state agencies once the benefit to employees begins July 1, 2023 (FY 2024). The costs below reflect projections for the first year (FY 2024) that new benefits are offered. These expenses are expected to continue beyond FY 2024.

1. Costs due to Staffing Changes: There are no reliable data upon which to base an estimate of the number of employees who will use the benefit. Starting FY 2014, there was an expansion of sick leave benefits allowing for the care of extended family members. This coincided with an increase in employees using sick leave benefits of 2.3% though there is no evidence that the new benefit was directly linked to the increase. Paid Parenting and Paid Family Leave represents a new benefit offered by the state starting in FY 2017. In Fiscal years 2018 and 2019, 2.2% and 2.1% of all state employees had used this benefit in each year. Based on the experiences noted above, we assume that 2.2% of all state employees will also use the new benefit.

To calculate the staffing costs for 24/7 operations, we make the following assumptions:

- For most state agencies, this fiscal note assumes that no additional staffing costs for the employees take the leave provided in this bill. Some agencies may hire additional staff in certain circumstances, while others may redistribute duties across existing employees. However, it is assumed that staffing changes will be necessary at 24 hour/7 day operations within agencies, as noted below.
- There were 6,304 employees in 24/7 operations in February 2020. The Departments of Human Services, Corrections, and Veterans Affairs account for 91 percent of these employees.
- Assuming growth of state employment of 0.4%, these 6,304 employees in 24/7 operations will grow to a base of 6,329 employees by FY 2021 with no subsequent changes per fiscal note policy.
- The average wage (FY2019) for these full-time employees was $33.79/hour including FICA and retirement. The average overtime is estimated as $50.69/hour. This fiscal note assumes 2.5% annual wage growth to a base of $35.50 regular and $53.26 overtime in FY 2021 with no change after per fiscal note policy.
- Based on current paid leave usage, approximately 2.2% of the 6,329 multi-shift employees will take the paid leave provided in this bill (approximately 140 employees) each year.
- The fiscal note assumes that 140 employees use the benefit each year and that 50% of these employees would be replaced at overtime wage rates and 50% would be replaced at regular wage rates.
- While employees are entitled to up to 24 weeks of paid leave (for the medical and family benefits) annually, this fiscal note assumes employees will take 12 weeks (480 hours) of the proposed benefit each year.
- Figures are rounded in thousands.

Fiscal Year	Total Leave-eligible employees taking benefit	Hourly Wage Rate	Total Hours	Wage Subtotal	Total Wages
FY 2024	70	$35.50 Reg	480	$1,193,000	$2,983,000
	70	$53.26 OT	480	$1,790,000	

Total wages paid at regular wage rates= (number of employees *480 hours) *Reg. Wage Rate
Total wages paid at overtime wage rates= (number of employees*480 hours) * Overtime Wage Rate
Leave eligible employees taking benefit (FY 2024) = $1,193,000+$1,789,000=$2,983,000

Total costs due to 24/7 operations staffing changes FY 2024: $2,982,000

This fiscal note assumes that 32% of the costs noted below will be paid from the general fund and 68% from all other state funds. Figures are rounded in thousands.

Fiscal Year	Total Wages	Percent Fund Allotment	Costs by Fund
FY 2024	$2,983,000	32% General Fund	$955,000
		68% All Other Funds	$2,028,000

The provision of paid time off benefits in this bill may result in additional costs to state agencies' operating budgets. While this fiscal note estimates the impact for 24/7 operations within state agencies, there may be other instances where state agencies need to increase staffing capacity to offset workload increase resulting from employee leave of absences provided in this bill. Additionally, the leave provided in this bill is similar to other leave types, such as FMLA. FMLA provides unpaid time off, and in certain circumstances, the employer is no longer required to pay the employer-share of health insurance costs. To the extent an employee would have otherwise taken FMLA leave but is eligible for the paid time off leave provided in this bill, there may be additional salary and insurance costs incurred by state agencies.

Local Fiscal Impact

Local units of government may also incur costs related to the provision of the paid level benefits provided in this bill, particularly related to the employer premiums and backfilling staff in 24/7 operations. Local governments may also incur the same types of notification costs identified in this fiscal note.

References/Sources

Agency Contact:

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HF5 - 5A - Paid Family Medical Benefits Employee Leave

Chief Author:	**Laurie Halverson**
Commitee:	**Ways and Means**
Date Completed:	**2/15/2020 3:37:16 PM**
Agency:	Revenue Dept

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X

Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	**FY2019**	**FY2020**	**FY2021**	**FY2022**	**FY2023**
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2019	**FY2020**	**FY2021**	**FY2022**	**FY2023**
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature:	Joe Harney	**Date:**	2/14/2020 1:06:44 PM
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State Cost (Savings) Calculation Details
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2			Biennium		Biennium	
Dollars in Thousands		FY2019	FY2020	FY2021	FY2022	FY2023
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

The bill creates a paid family and medical leave benefit insurance program that will be administered by the Department of Employment and Economic Development (DEED).

Assumptions

The Department of Revenue is not impacted by this bill, since it does not change taxes administered by this agency.

Expenditure and/or Revenue Formula

This bill will have an impact on state tax revenues. However an estimate of revenue impact is not included in this fiscal note. The Department of Revenue prioritizes revenue estimate requests for bills before Tax Committee and will provide one for this bill when it is before Tax Committee.

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact: Lisa Knops

Agency Fiscal Note Coordinator Signature: Lisa Knops **Date:** 2/13/2020 3:36:42 PM

Phone: 651-556-6754 **Email:** Lisa.Knops@state.mn.us

HF5 - 5A - Paid Family Medical Benefits Employee Leave

Chief Author:	**Laurie Halverson**
Commitee:	**Ways and Means**
Date Completed:	**2/15/2020 3:37:16 PM**
Agency:	Supreme Court

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	

Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	**FY2019**	**FY2020**	**FY2021**	**FY2022**	**FY2023**
General Fund	-	-	20	-	-
Total	**-**	**-**	**20**	**-**	**-**
Biennial Total			**20**		**-**

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2019	**FY2020**	**FY2021**	**FY2022**	**FY2023**
General Fund	-	-	-	-	-
Total	**-**	**-**	**-**	**-**	**-**

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Adam Blom **Date:** 2/14/2020 10:31:48 AM
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State Cost (Savings) Calculation Details
This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.
*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium		Biennium	
Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	20	-	-
Total	-	-	20	-	-
Biennial Total			20		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	-	20	-	-
Total	-	-	20	-	-
Biennial Total			20		-
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

HF5-5A creates a family and medical benefit insurance program administered by the Department of Employment and Economic Development (DEED) in chapter 268B. There are four types of benefits available: pregnancy benefits, bonding benefits, family care benefits, and serious health condition benefits. Employers are required to grant leave to employees during the period of benefit receipt. The program is funded through contributions from an employer tax and employee payroll deductions.

Article 1

Section 11 [268B.07] establishes an appeal process. Any party or the commissioner may seek reconsideration of an appeal. A final decision on a request for reconsideration may be appealed by a party directly to the Minnesota Court of Appeals.

Section 14 [268B.09] provides for employment protections and establishes a private civil action for individuals injured by a violation of this section. The cause of action may be maintained in any federal or state court of competent jurisdiction.

Section 15 [268B.10] allows an employer to apply the DEED to substitute a private plan for either or both the family and medical benefit programs under chapter 268B. An employer may appeal any adverse decision by DEED regarding the use of a private plan and the assessment of penalties in a manner specified by the commissioner of DEED.

Section 18 [268B.13] provides for collection of premiums. If judgment is entered against an employer for past due amounts, the interest rate is one percent per month. Employers may submit an application for credit adjustment. The denial of a credit adjustment or refund is a final determination unless an appeal is timely filed. Effective January 1, 2021.

Section 21 [268B.16] sets penalties for applicants who intentionally misrepresent or omit facts in an effort to obtain benefits for which they did not qualify. The determination of ineligibility is final unless an appeal is timely filed.

Section 22 [268B.17] sets penalties for employers who collude with an applicant for the purpose of assisting an applicant in receiving benefits fraudulently. The determination of penalty is final unless an appeal is timely filed.

Section 24 [268B.19] gives authority to the commissioner or benefit judge to issue subpoenas to compel the attendance of individuals and the production of documents and other personal property necessary in conjunction with the administration of the chapter. The subpoena is enforceable through the Ramsey County District Court.

Assumptions

Employer's Tax

The Minnesota Judicial Branch is an employer required to pay taxes on the wages paid to employees in covered employment for each calendar year up to the maximum.

The Minnesota Judicial Branch tax obligation will be calculated by Minnesota Management and Budget (MMB) and included in its fiscal note worksheet.

Appeals

Appeals will be filed with the Minnesota Court of Appeals for denial of claims, assessment of penalties, and denial of credit adjustments and refunds. The number of appeals that may be filed for denied benefit claims and other reasons is unknown. Although language in this bill is modeled on the state's unemployment statutes, a comparison to unemployment claims appealed is may underestimate the number of appeals due to the declining unemployment rate.

It is assumed that the 2019 DEED estimate that there will be 198,682 benefit claims filed per year still apply. It is assumed that at least 1% or 1,987 of benefit claims filed will be appealed to the Court of Appeals per year.

Approximately 80% of all appeals filed with the Court of Appeals are briefed and assigned to a three judge panel. It is assumed that there will be approximately 1,590 benefit denial cases briefed per year (1,987 appeals x 80%). Two hundred and twenty five (225) briefed cases per year require the time of one three judge court of appeals panel (three court of appeals judges). One additional staff attorney will be needed to process each increase of 225 briefed cases.

It will take approximately 7 (1,590 divided by 225) additional three-judge panels to hear these additional cases. A court of appeals judge unit is comprised of an appellate court judge, 2.5 law clerks and judicial administrative assistant. It is assumed that other appeals brought under this bill can be handled with the additional three-judge panels. It also is assumed an additional 7 staff attorneys will be needed.

It is assumed that no appeals will be filed with the Court of Appeals until FY24. It is assumed the appellate filing fee in FY24 will be $550.

Civil Action

An employee who is injured as a result of a violation of the employment protections section of the bill may bring a cause of action in district court to recover damages and for injunctive and other equitable relief. The number of civil actions that may be filed is unknown.

For purpose of this fiscal note, the number of employment cases will be used to calculate impact. The average number of employment cases filed in district court in 2016, 2017 and 2018 was 357 cases. It is assumed that the increase in the number of district court cases filed as a result of this bill would not be more than one half of all the other employment cases filed or approximately 178 cases. It is assumed that this will result in an impact of less than one district court judgeship and less than one court administration staff on a statewide basis.

It is assumed that no private causes of action filed with the District Courts until FY24. It is assumed the civil filing fee in FY24 will be $285. The amount of the law library fee will depend on the county in which the case is filed.

Tax Collection

DEED may bring an action in district court to collect overdue taxes from an employer under Minn. Stat. § 16D.14. The number of civil actions that may be filed is unknown. For purposes of this fiscal note, the number of cases filed to collect unemployment insurance taxes will be used to calculate impact. There were no cases found where DEED was the plaintiff in an action to recover overdue unemployment insurance taxes from an employer under Chapter 268 in 2016, 2017 or 2018. There were no cases found where DEED was the plaintiff in an action to recover overpaid unemployment insurance benefits in 2016, 2017, or 2018. It is assumed that there is a negligible impact on the need for district court judges and court administration staff to process claims to collect overdue taxes from an employer under this legislation.

Judgments entered in these actions would have an interest rate of 1% per month. This interest rate cannot currently be automatically calculated in the Judicial Branch case management system (MNCIS). Interest at this rate would need to be manually assessed as needed on the case.

It is assumed that automation of the 1% interest rate, based on the cost of development for a 2010 modification to the judgment interest rate component, would take approximately 2 years for the development to be completed. The necessary technology development would be accomplished by the Judicial Branch case management system vendor. It is also assumed that development will begin in FY21 to meet the legislation effective date of January 2023.

Subpoena Enforcement

The commissioner or benefit judge has the authority to issue subpoenas to compel the attendance of individuals and the production of documents and personal property necessary in connection with the administration of the Program.

The commissioner or benefit judge may petition or apply to the Ramsey County District Court to enforce the subpoena when a person refuses to comply with the subpoena issued. For purposes of this fiscal note, the number of subpoenas will be compared to the number of subpoenas issued in unemployment insurance cases under Minn. Stat. § 268.188. There have been no applications filed in Ramsey County District Court for enforcement of a subpoena issued in an unemployment insurance matter in 2017 or 2018. It is assumed that an application for subpoena enforcement under this bill would be rare and have nominal fiscal impact.

Expenditure and/or Revenue Formula

The bulk of the expenditures and any state general fund revenue realized by this bill will occur outside the scope of this fiscal note.

It is assumed that automation of the new interest rate on judgments, based on the cost of development for a 2010 modification to the judgment interest rate component, would be a one-time cost of approximately $20,000.

This bill will not result in an increase in court of appeals or a change in revenue in FY20, FY21, FY22, or FY23 because benefits will not be applied for or paid before January 1, 2023 (second half of FY23). There will be costs beginning FY24.

The costs of the Court of Appeals Judge unit and the staff attorney for FY24 are unknown at this time. For purposes of this fiscal note these costs will be based on FY21 costs. The biennial cost of a Court of Appeals judge unit is $649,000 the first year and $608,000 the second year. The first year includes $41,000 for chamber startup costs. The cost for one staff attorney is $151,000 per year.

It is estimated that the cost of 7 Court of Appeals Judge Units for FY24 would be $4,543,000 and the cost of 7 staff attorney for FY24 will be $1,057,000 per year for a total of $5,600,000.

The private cause of action and tax collection cases will result in an increase in the number of cases filled in district court, but that the increase in district court judge need will be less than 1 FTE and the increase in court administration staff need will be less than 1 FTE. An application for subpoena enforcement under this bill would be rare and have nominal fiscal impact.

It is assumed that there will be an increase in revenue to the general fund from filing fees, beginning in FY24.

The filing fee of $550 in Minn. Stat. § 357.08 will apply to the parties who file an appeal with the Court of Appeals. It is not known how many appellants will apply for and be granted in forma pauperis status. It is assumed that approximately 25% of claimants who appeal to the court of appeals will have been granted in forma pauperis status. It is assumed that filing fees will be paid beginning FY24. The amount of additional revenue in FY24 is estimated as follows:

1,574 cases x 1.75 parties per appeal x $550 = $1,514,975 per fiscal year.

The fees in Minn. Stat. § 357.021 will apply to cases filed in the District Court, unless a party is granted an order to proceed in forma pauperis or another exemption applies. Filing fees include the civil filing fee plus the county law library fee. Assuming district court civil filing fees will be paid in approximately 178 cases (estimated number of private causes of action filed), the increase to the state general fund is estimated to be $88,778 ($285 x 178 cases x 1.75 parties) per fiscal year beginning FY24. The fees in Minn. Stat. § 357.021 will not apply to DEED in cases brought to collect the benefits taxes under Minn. Stat. § 16D.14.

The total increase in filing fee revenue per year is estimated at $1,202,814 discounted by 3 months to account for cash flow. ($1,514,975 + $88,778 = $1,603,753. $1,603,753 / 12 mos. =133,646 per month x 9 mos.)

Long-Term Fiscal Considerations

It is not known if MJB can absorb the employer's tax beginning January 1, 2022. The Judicial Branch may need to seek an appropriation to cover the cost of the tax.

The impact of the legislation will occur in FY24, which is outside of the scope of this fiscal note. The Judicial Branch will need to seek funds described above for additional court of appeals judge units and staff attorneys.

Local Fiscal Impact

This bill will increase revenues for county law libraries in FY24 and beyond.

References/Sources

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